



United States
Department of
Agriculture

Farmers
Home
Administration

Washington
D.C.
20250

FmHA AN No. 2071 (2024)

March 20, 1990

SUBJECT: Access to FmHA Information Systems and Data by
Contractors

TO: State Directors, District Directors,
and County Supervisors

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to outline the conditions under which contractors may be allowed to use FmHA Multi-Function Work Stations, software, and facilities. It is anticipated that automation of many of the program and administrative functions will, under heavy workloads, require the hiring of temporary personnel for data entry and other short-term services, not including those for which discretion is involved for decision-making functions which are inherently Governmental.

COMPARISON WITH PREVIOUS AN:

No AN has been issued on this subject.

IMPLEMENTATION RESPONSIBILITIES:

Allowing contractors and/or non-FmHA employees access to sensitive data to perform a contracted function is a long-standing and difficult issue requiring a balance between efficiency of operation and the protection of sensitive, personal data. The first option is to perform the function with FmHA employees whose performance is under FmHA control and which avoids the whole problem. The next best option is to establish a situation where the contractor does not have access to FmHA's data bases and the data to be entered is not sensitive or it cannot be identified with any specific individual. The third best option is for the contractor to sign a non-disclosure statement and for the contracting officer/contracting officer's representative to apply strong oversight and tight controls over the data and the contractor's handling of the data.

When contractors and other individuals that are not permanent employees of FmHA are given access to FmHA facilities, hardware, software, and data

EXPIRATION DATE: March 31, 1991

Filing Instructions:
Preceding FmHA
Instruction 2024-A



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bases in order for them to perform short-term work under contract in support of the Agency's mission, there are several critical issues that must be considered; i.e.,

1. Contracting responsibilities,
2. Systems security,
3. Personnel supervision, and
4. Privacy Act implications.

Since FmHA systems may contain borrowers' personal data, one of the most important issues is the need to protect that data from abuse or misuse.

1. Contracting responsibilities. Program contracting authorities are described in FmHA Instruction 2024-A, Exhibit D. Personal services contracts are not authorized and precautions shall be taken to ensure that the contractor is not performing in a employer-employee relationship (see Item 3.)

The Contracting Officer has the primary responsibility to negotiate terms and conditions of the contract/agreement pertaining to Government-owned property and/or facilities. The Contracting Officer shall insert all necessary contract clauses and/or advanced understandings between the contractors and the Government.

The contract must contain language that warns the contractor against disclosing or using the information made available to them for anything but the purposes for which the information was intended. The contractor must sign a statement prohibiting disclosure of information at the time the contract is signed.

All contractors who develop, program, operate, maintain, or use FmHA automated information systems must obtain a security clearance. Prior to starting contractual work, the contractor is responsible for providing proof of clearance or submitting standard forms for obtaining clearances to the FmHA Security Staff for all contract personnel who use information covered by the Privacy Act of 1974. The contractor is responsible for the cost of the security clearances.

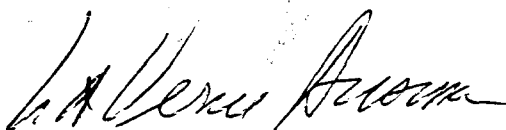
Government facilities and property provided to contractors and non-permanent employees of FmHA, their usage and management, and reporting shall be in accordance with the Federal Acquisition Regulations, Parts 45 and 52, the Agriculture Acquisition Regulations, Federal Property Management Regulations, and FmHA 2024-A. FmHA has determined that it is in the best interest of the Government for contractors to use Government facilities and equipment. The actual need to utilize Government property or facilities will be authorized by the contracting officer on a case-by-case basis.

2. Systems security. If the contractor is to work off-site and deliver the finished product on a disk that must then be integrated into an FmHA data base, the State Information Resource Manager (IRM) must be consulted as to technical ADP requirements to be imposed in the contract. It would be advisable to have the IRM test the first disk on the FmHA systems to ensure that introduction of the contractor's disk will not damage or significantly slow down FmHA's systems.

Non-FmHA persons' access to passwords and other means of access must be limited to the minimum necessary to accomplish the requirements of the contract. Passwords given to contractors should have expiration dates.

3. Personnel supervision. If it is necessary to provide strong oversight to the contractor for purposes of ensuring proper use of sensitive data, then there must be concern about developing an employer-employee relationship with the contractor. Supervisory responsibilities must be carried out by the private sector firm and not a Government employee. However, at the same time the Agency must give technical, task-related instructions including orientation, assignment of tasks, and review of work products in order that the contractor may properly perform his services under the contract. This certainly includes the application of controls sufficient to protect the interests of the Government and the privacy rights of borrowers.

4. Privacy Act implications. Under extreme circumstances where there is substantial concern about disclosure of sensitive data, it may be appropriate for the National Office to go through the formal process of notifying the public that FmHA will be using contractors to perform operations with the data under the "routine use" condition of disclosure (see FmHA Instruction 2015-E, Exhibit E), which means that the use of the records in this fashion is necessary to the operation of FmHA in performing its mission and are compatible with the purpose for which the data were originally collected (consult FmHA's Privacy Act Specialist before proceeding).



LA VERNE AUSMAN
Administrator